City of Tacoma

REQUEST FOR PROPOSALS

Specification No. IT14-0576F
Information Technology Department
SAP Technical and Functional Consulting Services

The City of Tacoma is accepting **SEALED PROPOSALS** for the above solicitation. Submittals will be received and time stamped only at the Purchasing Division, located in the Tacoma Public Utilities Administration Building North, Main Floor, 3628 South 35th Street, Tacoma, WA 98409.

Proposals will be received until **11:00 a.m., Pacific Time, Tuesday, November 4, 2014**, at which time they will be recorded and forwarded to a Selection Advisory Committee for evaluation. Proposals are not typically opened and read aloud.

An electronic copy of the complete solicitation documents may be viewed and obtained by accessing the City of Tacoma Purchasing website at [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org). A list of vendors registered for this solicitation is also available at the website. After 1:00 p.m. the day of bid opening, the names of vendors submitting proposals are posted to the website for public viewing.

A pre-proposal meeting will not be held.

**Project Scope:** The City of Tacoma (City), Information Technology Department is soliciting proposals to establish one or more contracts with qualified firms to provide supplemental support services on an as-needed basis for its SAP installation(s) for up to five years at predetermined rates.

**Estimate:** $1,900,000

Additional information regarding the specifications may be obtained by contacting Chuck Blankenship, senior buyer, by email to charles.blankenship@cityoftacoma.org.

CITY OF TACOMA

Kathy Katterhagen
Procurement and Payables Manager

Chuck Blankenship
Senior Buyer

City of Tacoma protest policy, located at [www.tacomapurchasing.org](http://www.tacomapurchasing.org), specifies procedures for protests submitted prior to and after submittal deadline.

Meeting sites are accessible to persons with disabilities. Reasonable accommodations for persons with disabilities can be arranged with 48 hours advance notice by calling 253-502-8468.
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This checklist identifies items to be included with your submittal. Any submittal received without these required items may be deemed non-responsive and may not be considered for award.

Sealed submittals must be received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Proposals page at the front of this Specification or subsequent addenda. See also Section 2.04 Submittal Package Requirements.

Respondents are encouraged to use recycled/recyclable products and both sides of paper for printed and photocopied materials, wherever possible.

<table>
<thead>
<tr>
<th>The following items, in this order, make up your submittal package:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Signature Page (Appendix A), including acknowledgement of addenda (if any)</td>
</tr>
<tr>
<td>3. Price Proposal Form (Appendix A)</td>
</tr>
<tr>
<td>4. Information in Section 2.02 – Content to be Submitted</td>
</tr>
<tr>
<td>Confidential information identified and indexed as indicated in 2.03</td>
</tr>
</tbody>
</table>

Provide:
- One original and seven copies of your complete submittal, arranged as indicated in Sections 2.01 and 2.02, in a sealed envelope or package labeled with the specification number, specification title, and Respondent name and address as indicated in Section 2.04.
- One electronic copy (USB drive) in either Word or PDF format, arranged as indicated in Sections 2.01 and 2.02.

Clearly identify original and copies.

After award approval, the following documents will be required:

1. Professional Services Contract (Appendix B)
SECTION 1 - PROJECT SCOPE / TECHNICAL PROVISIONS

1.01 PROJECT PURPOSE AND BACKGROUND

The City of Tacoma (City), Information Technology Department is soliciting proposals to establish one or more contracts with qualified firms to provide supplemental support services on an as-needed basis for its SAP installation(s) for up to five years at predetermined rates. The City reserves the right to make no award if it is in the City’s best interest. Contract award is not a guarantee or promise for a specific project or job. Services will be on an as-needed basis.

Subsequent to contract award(s), the City will solicit proposals for each project or job (Task Assignment), inclusive of consultant resumes and proposed roles, from contracted firms. Following a review of the proposals, the City will select the best qualified firm to provision the Task Assignment.

Note that the provisions found in Section 1, Section 2, and Section 3 will prevail over any conflicting provisions found in the Standard Terms and Conditions (Appendix C) of this RFP.

1.02 CALENDAR OF EVENTS

The anticipated schedule of events concerning this RFP is as follows:

- Publish and issue RFP: 10/15/14
- Questions due: 10/22/14
- Questions and answers posted: 10/24/14
- Submittal deadline: 11/04/14
- Evaluation: 11/05/14-11/21/14
- Council consideration of award, if required: 01/06/14

Contract may be issued after City Council approval, if required.

This is a tentative schedule only and may be altered at the sole discretion of the City.

1.03 PRE-SUBMITTAL CONFERENCE / INQUIRIES TO RFP

A. A pre-submittal conference will not be held; however, questions and requests for clarification of these specifications may be submitted in writing by 3:00 p.m., Pacific Time, October 22, 2014, to Chuck Blankenship, Purchasing Division, via email to charles.blankenship@cityoftacoma.org. Present your questions in MS Word format or directly in the body of the email message (if applicable, cross reference specific section of the RFP). Please also indicate the RFP specification number and title in the email subject line. No further questions will be accepted after this date and time.

B. Questions marked confidential will not be answered or included. Individual answers will not be provided directly to Respondents.

C. The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.
D. The answers are not typically considered an addendum. (See Section 3.01)

E. The City will not be responsible for unsuccessful submittal of questions.

F. Written answers to questions will be posted with the Specification on or about 10/24/14, on the Purchasing website at www.TacomaPurchasing.org: Navigate to Current Contracting Opportunities / Services then scroll to this RFP).

G. To receive notice of the posted answers, you must register as “bid holder” for this solicitation. Individual answers will not be provided directly to Respondents.

1.04 ACCEPTANCE AND RESPONSIVENESS

Respondents agree to provide a minimum of 90 days from the submittal deadline for acceptance by the City.

Submittals will be reviewed by the City to determine compliance with the requirements and instructions specified in this RFP. The Respondent is specifically notified that failure to comply with any part of this RFP may result in rejection of the submittal as non-responsive. The City reserves the right, in its sole discretion, to waive irregularities deemed to be immaterial.

The final selection, if any, will be that submittal or submittals, which, after review and potential interviews, in the sole judgment of the City, best meet the requirements set forth in this RFP.

1.05 CONTRACT TERM

The contract(s) will be for a three-year period with the option to renew the contract for two additional one-year terms. The City reserves the right to cancel the contract for any reason, by written notice, as stipulated in the contract.

1.06 PRICING

Billing rates under any contract resulting from this RFP shall be firm throughout each year or multiple years.

1.07 SERVICE CONTINUITY

It shall be the contracted firm’s responsibility to ensure continuity. Should staff be absent for a specific contract period, it shall be the firm’s responsibility to replace the absent staff at no additional cost to the City.

1.08 CANCELLATION

If the service provided by a contracted firm is unsatisfactory, the City reserves the right to cancel the contract and award to other firms.

1.09 INDEPENDENT CONTRACTOR

Firms under contract from this RFP will be considered independent contractors and all persons employed by said firms in connection herewith shall be considered employees of the contractor and not employees of the City.
1.10 INVOICING REQUIREMENTS

Invoices must include Task Assignment name, names of personnel, title, dates and hours worked, pay rate, and total amount billed. The invoice shall be sent to the project manager identified in the Task Assignment. Failure to invoice in such manner may cause a delay in payment.
1.11 SCOPE OF WORK

1.11.1 Anticipated Services

The City’s Information Technology Department is soliciting proposals to establish one or more contracts with qualified firms to provide supplemental support services on an as-needed basis for its current SAP ECC 6.0 EHP 7 installation, and future installations, for up to five years at predetermined rates.

Subsequent to contract award(s), the City will solicit proposals for each project or job (Task Assignment), inclusive of consultant resumes and proposed roles, from contracted firms. Following a review of the proposals, the City will select the best qualified firm to provision the Task Assignment. The Task Assignment will then be finalized between the parties, inclusive of the statement of work, assigned consultants and their roles, tasks, schedule, estimated costs, deliverables, and progress payment milestones.

The City anticipates the need to fulfill varying roles and levels of expertise depending upon the Task Assignment. The roles/expertise may include project manager, functional or technical lead, senior, base level consultants.

The anticipated portfolio of SAP Task Assignments for which consulting services may be required in 2015 and 2016 include: general ledger reconfiguration; procure to pay blueprint and realization; materials management reconfiguration; customer invoice redesign; configuration of environmental compliance; configuration of debt management.

In addition, the Task Assignment may include a specific request for supplemental support services for configuration or customization of the SAP modules or third party software listed in appendix D, City of Tacoma SAP Installation. The Task Assignment may include configuration or customization of SAP Modules currently not deployed within the City’s SAP installation. The Task Assignment may include a specific request for development, ABAP or BASIS support in the following areas: Java, Netweaver Enterprise Portal, BW and BI, SAP cluster architecture with Sun Solaris/Oracle, Solution Manager.

1.11.2 Background Investigation

Assigned personnel will be required to successfully pass a background investigation at the City’s expense upon request.
SECTION 2 - SUBMITTAL FORMAT, CONTENT, EVALUATION, AWARD

2.01 FORMAT AND PRESENTATION

A. Submittals should be clear, succinct, and not exceed 20 double-sided pages (40 pages total), excluding required City of Tacoma forms. Pages beyond this limit, including appendices, attachments, brochures, etc., may not be reviewed or evaluated. Use of appendices and attachments will count toward the page limit. Standard company brochures or similar marketing materials are allowed, but will not be evaluated or count toward the page limit.

B. For purposes of review and in the interest of the City's sustainable business practices, Respondents are encouraged to use recycled/recyclable products and both sides of paper for printed and photocopied materials, wherever possible. The use of materials that cannot be easily recycled such as PVC (vinyl) binders, spiral bindings, and plastic or glossy covers or dividers is discouraged. Color is acceptable, but content should not be lost by black-and-white printing or copying.

C. Required format
   Page size: 8.5” x 11” (no pages larger or smaller than this size)
   Margins: 0.75” or greater
   Font and size: Arial 10 or equivalent (nothing smaller than this size)

D. A full and complete response to each of the “content to be submitted” items is expected in a single location; do not cross reference to another section (e.g., “See Attachment 3 for response or details regarding …”) of the submittal document.

2.02 CONTENT TO BE SUBMITTED

Provide complete and detailed responses to all items using the same numbering format as presented below. Organization of the submittal should follow the sequence of contents below so that essential information can be located easily during evaluation.

Submittals that are incomplete or conditioned in any way that contain alternatives or items not called for in this RFP, or not in conformity with law, may be rejected as being non-responsive. The City will not accept any submittal containing a substantial deviation from the requirements outlined in this RFP.

A. Required Forms

1. Signature Page (Found in Appendix A)
2. Price Proposal Form (Found in Appendix A)

* Do not alter these forms in any way or substitute letterhead paper for them. Do not present cover letters, title pages, or blank pages ahead of these forms. The Signature Page must be signed by a person authorized to make proposals and enter into contract negotiations on behalf of your agency. This individual must be at least 18 years of age.
B. Executive Summary

1. A short history and description of your firm, including years in business, annual revenues, number of employees, organizational structure, services, areas/regions served, etc.

2. Background information of the parent company, if any.

3. Presence, if any, in the Puget Sound region.

4. List of sample clients, emphasizing government and public utility clients, and clients in the Puget Sound region, including dates of service.

5. Name and address of firm, telephone number, email address, website address, and contact person, with title, for this solicitation.

6. Name, title, and contact information of the person authorized to execute a contract on behalf of the Respondent.

7. Name, title, and contact information of the person who will be managing this contract on behalf of the Respondent.

C. Qualifications/Experience of Firm

1. Describe the experience your firm has had within the last three years in providing the consulting services solicited.

2. Describe the experience your firm has had providing the consulting services to government and public utility clients.

3. Describe the type and number of successful engagements and the roles of consultants placed by your firm in 2013. What was the average time (in days) to submit proposals for subsequent Task Assignments?

4. Describe how you ensure client satisfaction with consulting services. Describe the process that will be used to resolve performance issues with consultant placements.

D. Qualifications of Key Personnel

1. Provide a description of the job roles and skills that are proposed to service this account, including, but not limited to, account executive, project manager, lead, senior or base level consultant.

2. Provide a resume of the key account executive that would be serving the City. If more than one account executive would be assigned (one for each functional area, for example), include resumes for each and clearly identify their roles. Include the following:
   a. Experience and number of years performing consultant placements.
   b. Education, training, certifications relevant to this RFP.
   c. Number of years with your firm.
3. Describe your firm’s commitment to maintaining continuity of the assigned key account executive(s).

4. Provide a resume of the key personnel, and their role, e.g. project manager, lead, senior, base, that would be serving the City. Include the following:
   a. Experience and number of years performing in this role.
   b. Education, training, certifications relevant to this RFP.
   c. Number of years with your firm.

E. Approach/Methods Used to Provide Services

1. Describe the methods your firm employs to identify the appropriate consultant(s) for a given Task Assignment.

2. Describe the methods your firm employs to place and manage consultants.

3. Describe how you check background and verify consultant experience, skill, training, etc.

F. Client References

1. Provide at least three recent client references able to verify your firm’s overall expertise for this RFP purpose. Include name of company, contact person(s) and title, address, phone number, email address, and website address. Includes dates of service and describe consultant placements made.

G. Exceptions to Terms and Conditions

1. It is the City’s preference to utilize its standard Professional Services Contract (Appendix B). However, the City is open to negotiating specific terms and conditions. Detail any exceptions your firm takes to the Standard Terms and Conditions (Appendix C) and sample Professional Services Contract (Appendix B). See also Section 3.07 below.

H. Additional Information to be Submitted

1. Describe any value added services not specifically included in the scope of this RFP.

I. Credit Card Acceptance

1. Provide a statement regarding your ability to meet the City’s credit card requirements as well as identifying your reporting capabilities (Level I, II, or III). See Section 2.09. This information is not a consideration in the evaluation process and does not count toward the page total count.

J. Sustainability
1. Please demonstrate your firm’s commitment to providing the services identified in the scope of services in a sustainable manner. What measures will your firm take to minimize impacts to the environment in the delivery of services? Please provide details of efforts, practices and or processes.

2. Please demonstrate your firm’s commitment to sustainable business practices, which could include, but is not limited to a formal sustainability program and/or policies covering recycling measures; energy conservation plans; water conservation policies; or a green cleaning policy. Please provide details and include copies of reports, policies or plans, if available.

2.03 CONFIDENTIAL OR PROPRIETARY INFORMATION

Information that is confidential or proprietary must be clearly marked. Further, an index must be provided indicating the affected page number(s) and location(s) of all such identified material. Information not included in said index will not be reviewed for confidentiality or as proprietary before release. See 1.17 & 1.18 of the Standard Terms and Conditions Section 1 – Solicitation (Appendix C).

2.04 SUBMITTAL PACKAGE REQUIREMENTS

Submittals must be sealed in an envelope or package labeled with the specification number, specification title, and Respondent name and address, and received by the City of Tacoma Purchasing Division by the date and time specified in the Request for Proposals page or subsequent addenda.

2.05 EVALUATION CRITERIA

A Selection Advisory Committee (SAC) will review and evaluate submittals. After the evaluation, the SAC may conduct interviews of or request presentations by Respondents before final selection is made.

The SAC may use references to clarify and verify information in submittals and interviews, if conducted, which may affect the rating. The City reserves the right to contact references other than those included in the submittal.

The SAC may select one or more Respondents to provide services.

The inclusion of hourly rates as an evaluation factor does not require the City to select the Respondent submitting the lowest cost.

Respondents may be asked to provide their most recent audited financial statements demonstrating the Respondent’s financial ability to meet the requirement of any contract that may result from this RFP.

A serious deficiency in any one criterion may be grounds for rejection.

Submittals will be evaluated on the following criteria:

<table>
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<tr>
<th>CRITERIA</th>
<th>Points</th>
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</table>
2.06 INTERVIEWS / ORAL PRESENTATIONS

An invitation to interview or present, either in person or by conference call or video conference, may be extended to Respondents based on Selection Advisory Committee review of the written submittals. The SAC reserves the right to adjust scoring based on additional information and/or clarifications obtained during, or resulting from, interviews. The SAC may determine scoring criteria for the interviews following evaluation of written submittals.

The City reserves all rights to begin contract negotiations without conducting interviews.

2.07 AWARD

After the Respondent(s) is selected by the SAC and prior to award, all Respondents will be notified in writing by the Purchasing Division.

Once a finalist (or finalists) has been selected by the Selection Advisory Committee contract negotiations will begin. If a contract is successfully negotiated, it will, if required, be submitted for final approval by the Public Utility Board and/or City Council.

2.08 ADDITIONAL CONTRACTS / INTERLOCAL PURCHASES

The initial award will be for the Information Technology Department; however, other City locations/departments may be added to this Contract or develop their own separate contract from these Specifications during the contract term.

Other agencies or entities may enter into a separate contract based on these Specifications per RCW 39.34. See 2.12 of the Standard Terms and Conditions Section 2 – Services (Appendix C).

2.09 PAYMENT METHOD – CREDIT CARD ACCEPTANCE

The City, in its sole discretion, will determine the method of payment for goods and/or services as part of this agreement.

The City’s preferred method of payment is by Visa credit card (aka procurement card). Respondents may be required to have the capability of accepting the City’s authorized procurement card as a method of payment. **The City of Tacoma will not accept price changes or pay additional fees when the procurement card is used.**

Payment methods include:
A. Credit card. Tacoma's VISA procurement card program is supported by standard bank credit suppliers and requires merchants abide by the VISA merchant operating rules.

1. Vendors must be PCI-DSS compliant (secure credit card data management).
2. Vendors must be set up by their card processing equipment provider (merchant acquirer) as a minimum of a Level II merchant with the ability to pass along tax, shipping and merchant references information.

B. Electronic Funds Transfer (EFT) by Automated Clearing House (ACH).

C. Check or other cash equivalent.

D. The City may consider cash discounts when evaluating submittals. See 1.06 B. of the Standard Terms and Conditions Section 1 – Solicitation (Appendix C).
SECTION 3 - PROJECT REQUIREMENTS / SPECIAL PROVISIONS

3.01 REVISIONS TO RFP – ADDENDA

In the event it becomes necessary to revise any part of this RFP, addenda will be issued to registered plan holders and posted on the Purchasing website at www.TacomaPurchasing.org: Navigate to Current Contracting Opportunities / Services, and then click Specification for this RFP. Failure to acknowledge addenda may result in a submittal being deemed non-responsive.

Answers in response to RFP inquiries (see Section 1.03 above) are not typically provided as an addendum.

3.02 DELIVERY OF PRODUCTS AND SERVICES – IDLING PROHIBITED

The City of Tacoma has a commitment to reduction of unnecessary fuel emissions and improving air quality by reducing unnecessary air pollution from idling vehicles. Limiting car and truck idling supports cleaner air, healthier work environments, the efficient use of city resources, the public’s enjoyment of City properties and programs, conservation of natural resources, and good stewardship practices.

Vehicles and/or diesel fuel trucks shall not idle at the time and location of the delivery to the City for more than three minutes. The City requires contractors to utilize practices that reduce fuel consumption and emission discharge, including turning off trucks and vehicles during delivery of products to the City. Exceptions to this requirement include when associated power is necessary to make a delivery or provide the service, when the engine is used to provide power another device, and when a running engine is required for proper warm-up and cool-down of the engine.

3.03 ENVIRONMENTALLY PREFERABLE PROCUREMENT

The City has interest in measures used by its contractors to ensure sustainable operations with minimal adverse impact on the environment. The City seeks to do business with vendors that value community and environmental stewardship that help us meet our sustainable purchasing goals.

In accordance with the City’s Sustainable Procurement Policy, it is the policy of the City of Tacoma to encourage the use of environmentally preferable products or services that help to minimize the environmental and human health impacts of City operations. Respondents are encouraged to incorporate environmentally preferable products or services into their responses wherever possible. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service. To view the above City policies go to Section XXIV.A. of the Purchasing Policy Manual.

3.04 SUSAINABILITY

The City of Tacoma encourages the use of sustainability practices and desires any awarded contractor(s) to assist in efforts to address such factors when feasible for:

- Pollutant releases
• Toxicity of materials used
• Waste generation
• Greenhouse gas emissions, including transportation of materials and services
• Recycle content
• Energy consumption
• Depletion of natural resources
• Potential impact on human health and the environment

The supplier shall package orders, preferably in environmentally friendly packaging such as reduced packaging and recyclable packing materials.

3.05 COSTS TO PREPARE SUBMITTAL

The City is not liable for any costs incurred by the Respondent for the preparation of materials or a proposal submitted in response to this RFP, conducting presentations to the City, or any other activities related to responding to this RFP.

3.06 SUBMITTAL CLARIFICATION

Respondents may be asked to clarify their submittal. This action shall not be construed as negotiations or any indication of intentions to award. If called upon, the Respondent must respond to such requests within two business days. A Respondent's failure to respond to such a request may result in rejection of its submittal. See 1.05 of the Standard Terms and Conditions Section 1 – Solicitation (Appendix C).

3.07 CONTRACT OBLIGATION / ACCEPTANCE OF SUBMITTAL CONTENTS

The submittal contents of the successful Respondent will become a contractual obligation if a contract ensues.

In the event the City of Tacoma determines to award a Contract, the selected Respondent(s) will be expected to execute a contract with the CITY in a form identical or similar to the City’s Standard Professional Services Contract attached and incorporated as Appendix B. Respondents should identify in their responses any objections or exceptions to the Professional Services Contract and to the Terms and Conditions contained in this RFP. Failure to note such objections or exceptions will be deemed as acceptance for purposes of negotiating the final Contract.

Note that the provisions found in the sample Professional Services Contract will prevail over any conflicting provisions found in the Standard Terms and Conditions of this RFP.

No costs chargeable for work under the proposed Contract may be incurred before receipt of a fully executed Contract.

3.08 COMMITMENT OF KEY PERSONNEL

The Respondent agrees that key personnel identified in its submittal or during contract negotiations as committed to this project will, in fact, be the key personnel to perform during the life of this contract. Should key personnel become unavailable for any reason, the selected Respondent shall provide suitable replacement personnel, subject to the approval of the City.
Substantial organizational or personnel changes within the agency are expected to be communicated immediately. Failure to do so could result in cancellation of the Contract.

3.09 ADDITIONAL PRODUCTS AND SERVICES

Any related additional products and services of benefit to the City not specifically required in this RFP, but which the Contractor offers to provide, may be outlined on a separate page and included with the submittal.

3.10 EXPANSION CLAUSE

Any resultant contract may be further expanded in writing to include other related services or products normally offered by the Contractor, as long as the price of such additional services or products have a profit margin equal to or less than that in place at the time of original submittal. Such additions and prices will be established by written addendum to the contract. New items not meeting these criteria will not be added to the contract. Contractor profit margins are not to increase as a result of contract additions.

Any new services accepted by the City may be added to this contract and/or substituted for discontinued services. New services shall meet or exceed all specifications of original award.

3.11 ACCEPTANCE / REJECTION OF SUBMITTALS

The City reserves the right and holds at its discretion the following rights and options:

- To waive any or all informalities
- To award one or more contracts
- To award by line item or group of line items
- To not award one or more items
- To not award a contract
- To issue subsequent RFPs

3.12 RESERVED RIGHTS

In addition to other rights in this RFP, the City reserves, holds, and may exercise at its sole discretion, the following rights and options:

A. To supplement, amend, or otherwise modify or cancel this RFP with or without substitution of another solicitation.
B. To issue additional or subsequent solicitations.
C. To conduct investigations of Respondents and their proposals, including inspection of their facilities.
D. To award a contract or contracts resulting from this solicitation to the responsible Respondent(s) whose proposal conforming to this solicitation will be most advantageous to the City.
E. To negotiate any rate/fee offered by a Respondent. The City shall have the sole right to make the final rate/fee offer during contract negotiations. If the selected Respondent does not accept the City’s final offer, the City may, in its sole discretion, reject the proposal and start negotiations with other Respondents.
F. If an award is made and, prior to entering into a contract, subsequent information indicates that such award is not in the best interest of the City, the City may rescind the award without prior notice to the Respondent and either award to another Respondent or reject all proposals or cancel this solicitation.

G. Respondents are advised that the City reserves the right to cancel award of this Contract at any time before execution of the Contract by both parties if cancellation is deemed to be in the City's best interest. In submitting a proposal, Respondents agree that the City is not liable for any costs or damages for the cancellation of an award. The Respondent assumes the sole risk and responsibility for all expenses connected with the preparation of this proposal.
APPENDIX A

Signature Page

Price Proposal Form
Information Technology Department

All submittals must be in ink or typewritten and must be executed by a duly authorized officer or representative of the bidding/proposing entity. If the bidder/proposer is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.

Submittals will be received and time stamped only at the City of Tacoma Purchasing Division, located in the Tacoma Public Utilities Administration Building North, Main Floor, at 3628 South 35th Street, Tacoma, WA 98409. See the Request for Proposals page near the beginning of the specification for additional details.

REQUEST FOR PROPOSALS SPECIFICATION NO.: IT14-0576F

SAP Technical and Functional Consulting Services

The undersigned bidder/proposer hereby agrees to execute the proposed contract and furnish all materials, labor, tools, equipment and all other facilities and services in accordance with these specifications.

The bidder/proposer agrees, by submitting a bid/proposal under these specifications, that in the event any litigation should arise concerning the submission of bids/proposals or the award of contract under this specification, Request for Bids, Request for Proposals or Request for Qualifications, the venue of such action or litigation shall be in the Superior Court of the State of Washington, in and for the County of Pierce.

Non-Collision Declaration

The undersigned bidder/proposer hereby certifies under penalty of perjury that this bid/proposal is genuine and not a sham or collusive bid/proposal, or made in the interests or on behalf of any person or entity not herein named; and that said bidder/proposer has not directly or indirectly induced or solicited any contractor or supplier on the above work to put in a sham bid/proposal or any person or entity to refrain from submitting a bid/proposal; and that said bidder/proposer has not, in any manner, sought by collusion to secure to itself an advantage over any other contractor(s) or person(s).

Bidder/Proposer’s Registered Name

Signature of Person Authorized to Enter into Contracts for Bidder/Proposer

Date

Address

Printed Name and Title

City, State, Zip

(Area Code) Telephone Number / Fax Number

E-Mail Address

State Business License Number

in WA, also known as UBI (Unified Business Identifier) Number


State Contractor’s License Number

(See Ch. 18.27, R.C.W.)

Addendum acknowledgement #1_____ #2_____ #3_____ #4_____ #5_____

THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITTAL.
CITY OF TACOMA
* PRICE PROPOSAL FORM *
REQUEST FOR PROPOSALS IT14-0576F
SAP Technical and Functional Consulting Services

Respondent Name______________________________________________________________

**Hourly Rates**
If appropriate, the following hourly rates should be differentiated in the submittal:

- hourly rates for each SAP module and third party software listed in Appendix D, City of Tacoma SAP Installation
- hourly rates for platform development, ABAP or BASIS support in the following areas: Java, Netweaver Enterprise Portal, BW and BI, SAP cluster architecture with Sun Solaris/Oracle, Solution Manager
- hourly rates for roles and levels of expertise, e.g., project manager, lead, senior, base
- hourly rates for onshore and offshore resourcing

List the proposed hourly billing rate for each type consultant. Include additional rows for specific skill sets, as applicable. The hourly billing rates to the City shall reflect all costs of providing these services to the City and are subject to negotiation. The City will not pay any additional fees, tariffs, add-ons or surcharges.

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<th>Description</th>
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APPENDIX B

Sample Standard Professional Services Contract
PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT, made and entered into effective this _____ day of _____, 20____, by and between the CITY OF TACOMA, a municipal corporation of the State of Washington (hereinafter referred to as the “CITY”), and Insert Name of Contractor, a Insert Business Entity Status, e.g., sole proprietorship, limited liability company, Washington state corporation, etc., (hereinafter referred to as “CONTRACTOR”);

In consideration of the mutual promises and obligations hereinafter set forth, the Parties hereto agree as follows:

1. Scope of Services/Work

   A. The CONTRACTOR agrees to diligently and completely perform the services and/or deliverables described in Exhibit(s) ________ attached hereto and incorporated herein.

   B. Changes To Scope of Work. The CITY shall have the right to make changes within the general scope of services and/or deliverables upon execution in writing of a change order or amendment hereto. If the changes will result in additional work effort by CONTRACTOR, the CITY will agree to reasonably compensate the CONTRACTOR for such additional effort up to the maximum amount specified herein or as otherwise provided by City Code.

2. Term

   A. All services shall be satisfactorily completed on or before __________________, or as otherwise specified in Exhibit ____ and this Contract shall expire on said date unless mutually extended in writing by the Parties.

   B. Neither party shall be considered to be in default in the performance of this Contract to the extent such performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party and, in such event, the time for performance shall be extended for a period equal to any time lost as a result thereof. In the event CONTRACTOR is unable to proceed due to a delay solely attributable to CITY, CONTRACTOR shall advise CITY of such delay in writing as soon as is practicable.

3. Compensation and Payment

   A. The CITY shall compensate the CONTRACTOR for the services and deliverables performed under this Contract as follows:

      Check ONLY one:

      ☐ On the basis of Time and Materials according to the rates and charges set forth in Exhibit ______.

      ☐ In accordance with Exhibit ______.

      ☐ At the rate of $______ per hour.
B. The total price to be paid by CITY for CONTRACTOR’S full and complete performance of the Scope of Work hereunder shall not exceed $____ without the written consent of the CITY. Said price shall be the total compensation for CONTRACTOR’S performance hereunder including, but not limited to, all work, deliverables, materials, supplies, equipment, subcontractor’s fees, and all reimbursable travel and miscellaneous or incidental expenses to be incurred by CONTRACTOR.

C. The CONTRACTOR shall submit monthly invoices in a format comparable to the invoice attached hereto and identified as Exhibit _______, for services completed and/or deliverables furnished during the previous month. Upon CITY’S request, CONTRACTOR shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables.

D. Payment shall be made through the CITY’S ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice.

E. The CITY may withhold payment to the CONTRACTOR for any services or deliverables not performed as required hereunder until such time as the CONTRACTOR modifies such services or deliverables to the satisfaction of the CITY.

F. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

G. In the event the CONTRACTOR incurs cost in excess of the sum authorized for service under this Contract, the CONTRACTOR shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and the CONTRACTOR shall have no claim against the CITY on account thereof.

4. Independent Contractor Status

A. The services and deliverables shall be furnished by the CONTRACTOR as an independent Contractor, and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant. No payroll or employment taxes of any kind shall be withheld or paid by the CITY with respect to payments to CONTRACTOR. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. By reason of CONTRACTOR’s status as an independent Contractor hereunder, no workers’ compensation insurance has been or will be obtained by the CITY on account of CONTRACTOR. CONTRACTOR may be required to provide the CITY proof of payment of these said taxes and benefits. If the CITY is assessed or deemed liable in any manner for those charges or taxes, the CONTRACTOR agrees to hold the CITY harmless from those costs, including attorney’s fees.

B. The CONTRACTOR shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Contract, unless otherwise specified in writing herein.

5. Professional Services Warranty
A. The CONTRACTOR warrants that all services performed pursuant to this Contract shall be generally suitable for the use to which CITY intends to use said services and deliverables as expressed in Exhibit(s) ___. Additional warranties, if any, for incidental product deliverables hereunder are set forth in Exhibit ___ <<or in Section 1.A.(2) above>>.

B. In the performance of services under this Contract, the CONTRACTOR and its employees agree to exercise the degree of skill and care required by customarily accepted good practices and procedures followed by professionals/consultants rendering the same or similar type of service. All obligations and services of the CONTRACTOR hereunder shall be performed diligently and completely according to such professional standards.

C. If the CONTRACTOR intends to rely on information or data supplied by the CITY, other CITY contractor’s or other generally reputable sources without independent verification, such intent shall be brought to the attention of the CITY.

6. Contract Administration and Right to Audit

A. The Insert Dept/Division/Engineer/City Contact for the CITY shall have primary responsibility for contract administration and approval of services to be performed by the CONTRACTOR, and shall coordinate all communications between the CONTRACTOR and the CITY.

B. The CONTRACTOR shall, at such times and in such form as the CITY may reasonably require, furnish the CITY with periodic status reports pertaining to the services undertaken pursuant to this Contract.

C. Upon CITY’s request, the Contractor shall make available to CITY all accounts, records, and documents related to the Scope of Work for CITY’s inspection, auditing, or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance, and/or quality assurance under this Contract.

7. Records Retention

The CONTRACTOR shall establish and maintain records in accordance with requirements prescribed by the CITY, with respect to all matters covered by this Contract. Except as otherwise authorized by the CITY, the CONTRACTOR shall retain such records for a period of six (6) years after receipt of the final payment under this Contract or termination of this Contract.

8. Notices

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail or facsimile, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

<table>
<thead>
<tr>
<th>CITY</th>
<th>CONTRACTOR</th>
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<tr>
<td>Name and Address</td>
<td>Name and Address</td>
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<tr>
<td>Phone</td>
<td>Phone</td>
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</table>
9. Termination and Suspension

A. The CITY may terminate this Contract at any time, with or without cause, by giving ten (10) business days written notice to CONTRACTOR. In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the CITY. In the event CITY terminates this Contract due to the CITY’s own reasons and without cause due to the CONTRACTOR’s actions or omissions, the CITY shall pay the CONTRACTOR the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein.

B. The CITY may suspend this Contract, at its sole discretion, upon seven (7) business days written notice to the CONTRACTOR. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the CONTRACTOR’S reasonable expenses and shall be subject to verification. The CONTRACTOR shall resume performance of services under this Contract without delay when the suspension period ends.

C. Termination or suspension of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

10. Taxes, Licenses and Permits

A. The CONTRACTOR acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and the CONTRACTOR agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, the CONTRACTOR agrees to hold the CITY harmless from such costs, including attorney’s fees.

B. In the event the CONTRACTOR fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then the CONTRACTOR authorizes the CITY to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the CONTRACTOR’s total compensation.

C. The CONTRACTOR, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The CONTRACTOR shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30.

11. Indemnification

A. The CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands,
damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the fault of the CITY, or its officers, agents, or employees. The term “fault” as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.

B. The CONTRACTOR specifically assumes potential liability for actions brought by the CONTRACTOR’S own employees against the CITY and, solely for the purpose of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the state industrial insurance law, Title 51 RCW. THE CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.

C. This indemnification shall extend to and include attorneys’ fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.

12. Insurance

During the course and performance of the services herein specified, CONTRACTOR will maintain the following insurance coverage:

A. Workers’ Compensation and employer's liability --statutory limits.

B. Commercial General Liability --$1,000,000 single limit combined for personal injury, property damage; $2,000,000 aggregate.

C. Automobile public liability and property damage--$1,000,000 single limit combined for bodily injury and property damage.

D. Professional liability or errors and omissions --$1,000,000 combined single limit for errors and omissions resulting in monetary loss normally covered by professional liability insurance.

Certificates of the above insurance coverage shall be delivered, within ten (10) days, to the CITY by CONTRACTOR’S insurance carrier or agent certifying the above insurance coverage items are in effect and will not be cancelled or materially changed without 30 days' written notice given to the CITY. The commercial general liability policy shall be on an occurrence basis and shall include an endorsement naming the CITY as an additional insured and stating that coverage under such policy is primary over and non-contributory with any insurance the CITY may maintain.

13. Nondiscrimination

The CONTRACTOR agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination
provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

14. Conflict of Interest

No officer, employee or agent of the CITY, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The CONTRACTOR shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The CONTRACTOR represents that the CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains which would conflict in any manner or degree with the performance of the CONTRACTOR’S services and obligations hereunder. The CONTRACTOR further covenants that, in performance of this Contract, no person having any such interest shall be employed. The CONTRACTOR also agrees that its violation of the CITY’S Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Contract subjecting the Contract to termination.

15. City ownership of Work/Rights in Data and Publications:

A. To the extent that CONTRACTOR creates any Work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Contract, CONTRACTOR agrees to the following: The Work has been specially ordered and commissioned by CITY. CONTRACTOR agrees that the Work is a “work made for hire” for copyright purposes, with all copyrights in the Work owned by CITY. To the extent that the Work does not qualify as a work made for hire under applicable law, and to the extent that the Work includes material subject to copyright, CONTRACTOR hereby assigns to CITY, its successors and assigns, all right, title and interest in and to the Work, including but not limited to, all patent, trade secret, and other proprietary rights and all rights, title and interest in and to any inventions and designs embodied in the Work or developed during the course of CONTRACTOR’S creation of the Work. CONTRACTOR shall execute and deliver such instruments and take such other action as may be required and requested by CITY to carry out the assignment made pursuant to this section. Any documents, magnetically or optically encoded media, or other materials created by CONTRACTOR pursuant to this Contract shall be owned by CITY and subject to the terms of this sub-section. To the maximum extent permitted by law, CONTRACTOR waives all moral rights in the Work. The rights granted hereby to CITY shall survive the expiration or termination of this Contract.

B. The CONTRACTOR shall be solely responsible for obtaining releases for the performance, display, recreation, or use of copyrighted materials.

16. Public Disclosure

A. This Contract and documents provided to the CITY by CONTRACTOR hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the CITY may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and CONTRACTOR has complied with the requirements of sub-section B herein, CITY agrees to provide CONTRACTOR ten (10)
days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, including any damages, attorneys fees or costs awarded by reason of having opposed disclosure. CITY shall not be liable for any release where notice was provided and CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the “Notices” provision herein.

B. If CONTRACTOR provides the CITY with records that CONTRACTOR considers confidential or proprietary, CONTRACTOR must mark all applicable pages of said record(s) as “Confidential” or “Proprietary.” If CONTRACTOR fails to so mark record(s), then (1) the CITY, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and (2) the CONTRACTOR expressly waives its right to allege any kind of civil action or claim against the CITY pertaining to the release of said record(s).

17. Duty of Confidentiality

A. CONTRACTOR acknowledges that unauthorized disclosure of information or documentation concerning the Scope of Work hereunder may cause substantial economic loss or harm to the CITY.

B. Except for disclosure of information and documents to CONTRACTOR's employees, agents, or subcontractors who have a substantial need to know such information in connection with CONTRACTOR's performance of obligations under this Contract, the CONTRACTOR shall not without prior written authorization by the CITY allow the release, dissemination, distribution, sharing, or other publication or disclosure of information or documentation obtained, discovered, shared or produced pursuant to this Contract.

C. The CONTRACTOR shall inform its employees, agents, and subcontractors of the confidentiality obligations under this Contract and instruct them so as to ensure such obligations are met. If so requested by the CITY, the CONTRACTOR further agrees to require all such individuals and entities performing services pursuant to this Contract to execute a Confidentiality and Non-Disclosure Agreement in a form acceptable to CITY.

D. The CONTRACTOR shall not release any information or documentation concerning the work under this Contract or any part thereof for marketing, advertising, or other commercial activities or publication including, but not limited to, news releases or professional articles, without the prior written approval of the CITY. Any and all news releases, professional articles, marketing, advertising, publicity, or other commercial activities that describe or discuss the Scope of Services shall be reviewed and approved by the CITY prior to publication, disclosure and/or distribution. The CONTRACTOR may submit for review and approval a generic abstract describing the component parts of the completed Scope of Services (“Project Abstract”). After receiving written approval of the Project Abstract from the CITY, the CONTRACTOR may make minor insignificant changes to the Project Abstract and use all or parts of the Project Abstract in proposals.
E. This Section shall survive for six (6) years after the termination or expiration of this Contract.

F. CONTRACTOR shall ensure that the text of this Section is included in each subcontractor's contract pertaining to the Scope of Services hereunder.

18. Dispute Resolution

In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other remedies. This provision does not limit the CITY’S right to terminate authorized by this Contract.


A. Governing Law and Venue. Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.

B. Assignment. The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.

C. No Third Party Beneficiaries. This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

D. Waiver. A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

E. Severability and Survival. If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.

F. Entire Agreement. This Contract and the attached Exhibits, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.

G. Modification. No modification or amendment of this Agreement shall be effective unless set forth in writing and signed by the Parties.
H. Authority to enter into this Contract. The undersigned Contractor representative, by his/her signature below, represents and warrants that he/she is duly authorized to execute this legally binding Contract for and on behalf of Contractor.

IN WITNESS WHEREOF the parties hereto have accepted and executed this Contract as of the day and year first written above.

CITY OF TACOMA

Printed Name/Title Division Head or Representative

Printed Name: __________________________
Title: __________________________
Address: __________________________

Additional department/division representative, if applicable

______________________________

Director of Finance

City/State/Zip

Approved as to Form:

______________________________
Deputy/Assistant City Attorney

Approved:

______________________________
Risk Manager

Attest:

______________________________
City Clerk
EXHIBIT "B"

INVOICE

This form is intended to illustrate the information the City of Tacoma needs to process Contract payments. The City of Tacoma prefers that CONTRACTOR use its own standard business invoice forms so long as they include the following information. CONTRACTORS who do not have a standard business invoice form may use this form as their invoice. Your cooperation in providing the information we are requesting will ensure prompt processing of your payments.

I HEREBY REQUEST PAYMENT FOR THE FOLLOWING ITEMIZED SERVICES AND/OR PRODUCT DELIVERABLES:

Services (Describe):

Deliverables (Describe):

AS PER CONTRACT No.: ________________ AMOUNT DUE: __________

I HEREBY CERTIFY THAT THIS BILL IS CORRECT AND JUST AND THAT PAYMENT FOR THE SERVICES AND/OR DELIVERABLES IDENTIFIED HAS NOT BEEN RECEIVED.

BY: _______________________________ DATE SIGNED: ______________

SIGNATURE: _______________________________

TITLE: _______________________________

ORGANIZATION NAME: _______________________________

FEDERAL TAX ID No. or SS No.: _______________________________

TELEPHONE NUMBER: _______________________________

PLEASE REMIT PAYMENT TO: (Name and Address of Contractor)

I Attest and Certify that all Services and/or Deliverables identified in this Invoice have been performed and/or supplied.

__________________________________

Contract Administrator Signature

City Dept/Division:
Contact Name:
Phone: 253-
Fax: 253-
APPENDIX C

Standard Terms and Conditions – Solicitation – Section 1

Standard Terms and Conditions – Services – Section 2
CITY OF TACOMA
STANDARD TERMS AND CONDITIONS
SECTION 1 – SOLICITATION

THE FOLLOWING TERMS AND CONDITIONS ARE PART OF THIS SPECIFICATION AND ARE BINDING ON ALL RESPONDENTS SUBMITTING RESPONSES TO REQUESTS FOR BIDS, PROPOSALS, QUALIFICATIONS AND INFORMATION.

1.01 DELIVERY OF SUBMITTALS TO THE CITY’S PURCHASING DIVISION

Submittal packages must be received by the City’s Purchasing Division, Tacoma Public Utilities Administration Building, Main Floor, 3628 South 35th Street, Tacoma, WA 98409-3115, prior to the scheduled time and date stated in the solicitation announcement. Each submittal, intact and bound, shall be completely sealed, with the name of the submitting party (hereinafter “Respondent”), the specification number and title clearly marked on the exterior of the package. City offices are not open for special mail or other deliveries on weekends and City holidays.

Submittals may be delivered to the City by mail or in person; however, the Respondent is solely responsible for timely delivery of its submittal to the Purchasing Division.

Facsimile (fax) copies of submittals for requests for sealed bids, requests for proposals, requests for qualifications and requests for information will not be accepted at any City fax machine.

Submittals received after the time stated in the solicitation announcement will not be accepted and will be returned, unopened, to the Respondent.

For purposes of determining whether a submittal has been timely received, the City's Purchasing Division may rely on Universal Coordinated Time from the National Bureau of Standards as reported by http://wwp.greenwichmeantime.com/

1.02 WITHDRAWAL OF SUBMITTALS

A. Prior to Submittal Deadline (Bid Opening)

Submittals may be withdrawn prior to the scheduled submittal deadline by providing written notice to the City’s Purchasing Division. The notice may be submitted in person or by mail; however, it must be received by the City’s Purchasing Division prior to the submittal deadline.

B. After Submittal Deadline

No submittal can be withdrawn after having been opened as set forth in the solicitation announcement, and before the actual award of the contract, unless the award is delayed more than 60 calendar days beyond the date of opening. If a delay of more than 60 calendar days does occur, the Respondent must submit written notice to the purchasing manager that Respondent is withdrawing its submittal.

1.03 SUBMITTAL IS NON-COLLUSIVE

The Respondent acknowledges that by its delivery of a submittal to the City in response to this solicitation it represents that the prices in such submittal are neither directly nor indirectly the result of any formal or informal agreement with another Respondent.

1.04 OPENING AND ACCEPTANCE OF SUBMITTALS

Submittals, unless previously withdrawn, will be read aloud, irrespective of any irregularities or informalities in such submittal, at the time and place specified in the solicitation announcement.

All submittals must remain open for acceptance by the City for a period of at least 60 calendar days from the date of opening.

1.05 RIGHT TO REJECT

The City of Tacoma reserves the right to reject any and all submittals, waive minor deviations or informalities, and if necessary, call for new submittals.

A. Requests for Proposals (RFP)

By submitting a proposal in response to a City RFP, the Respondent acknowledges and consents to the below City rights and conditions. With regard to this procurement process, the City reserves, holds
without limitation, and may exercise, at its sole discretion, the following rights and conditions:

1. To terminate the procurement process or decide not to award a contract as a result thereof by written notice to the Respondents for any reason whatsoever.

2. To waive any defect, technicality, or any other minor informality or irregularity in any submittal, or any other response from Respondents.

3. To make minor or major changes or alterations to the evaluation, selection and/or performance schedule(s) for any events associated with this procurement process upon notice to the Respondents.

4. To supplement, amend or otherwise modify the RFP specifications, at any time upon prior notice to Respondents, including but not limited to modifications to the description of services and/or products contained in the RFP, by omitting services/products and/or including services/products not currently contemplated therein.

5. To request clarifications, additional information, and/or revised submittals from one or more Respondents.

6. To conduct investigations with respect to the qualifications and experience information for each Respondent included in a submittal and to request additional evidence to support any such information.

7. To eliminate any Respondent that submits an incomplete or inadequate response, or is non-responsive to the requirements of the RFP specifications, or is otherwise deemed to be unqualified during any stage of the procurement process.

8. To select and interview a single finalist or multiple finalists for the purpose of promoting the City’s evaluation of submittals provided in response to the RFP specifications. The City may, in its sole and exclusive discretion as to what is in the City’s best interest, elect not to conduct interviews of any or all respondents in connection with this RFP process.

9. To discontinue contract negotiations with a selected Respondent and commence such negotiations with another respondent, except as otherwise provided in Chap. 39.80, RCW.

10. To select and enter into a contract with one or more Respondents whose submittal best satisfies the interests of the City and is most responsive, in the sole judgment of the City, to the requirements of the RFP specifications.

11. To take any other action affecting the RFP specifications or the procurement process that is determined to be in the City’s best interests.

12. In the event the City receives questions concerning RFP specifications from one or more Respondents prior to the deadline for response, the City reserves the right to provide such questions, and the City’s responses, if any, to all Respondents.

13. Neither the City, its officials, staff, agents, employees, representatives, nor consultants will be liable for any claims or damages resulting from any aspect of this procurement process.

1.06 EVALUATION OF SUBMITTALS

The City of Tacoma reserves the right to award to the lowest and best responsible Respondent(s) delivering a submittal in compliance with the specification documents, provided such submittals are reasonable and are in the best interest of the City to accept. The City may use a number of criteria for determining award, including evaluation factors set forth in Municipal Code Section 1.06.262. Respondents who are inexperienced or who fail to properly perform other contracts may have their submittal rejected for such cause.

A. Evaluation Factors

In addition to the factors set forth in Municipal Code Section 1.06.262, the following may be used by the City in determining the lowest and best responsible submittal:
1. Compliance with the Specification and with applicable City requirements, including by not limited to, the City’s Ethics Code and its Small Business Enterprise and Local Employment and Apprenticeship programs.

2. Submittal prices, listed separately if requested, as well as a lump sum total (if the unit price does not compute to the extended total price, the unit price shall govern).

3. Time of delivery and/or completion of performance (delivery date(s) offered).

4. Warranty terms.

5. Quality of performance of previous contracts or services, including safety requirements and past compliance with the City’s Ethics Code.

6. Previous and existing compliance with laws and ordinances relating to contracts or services.

7. Sufficiency of financial resources.

8. Quality, availability and adaptability of the supplies or services to the particular use required.

9. Ability to provide future maintenance and service on a timely basis.

10. Location of nearest factory authorized warranty repair facility or parts dealership.

11. Ability, capacity, experience, stability, reputation, integrity, character, judgment, technical qualifications and skill to perform the contract or provide the services required.

All other elements or factors, whether or not specifically provided for in this Specification, which would affect the final cost to, and the benefits to be derived by, the City, may be considered in determining the award of the contract. The final award decision will be based on the best interests of the City.

B. Cash Discount

Payment discount periods of 20 calendar days or more, if offered in the submittal, will be considered in determining the apparent lowest responsible submittal. Discounts will be analyzed in context of their overall cumulative effect.

1.07 COMPLETION OF CITY FORMS

All submittals must be completed in ink or typewritten using the forms included with this Specification, and submitted exactly as specified.

City forms requiring signature must be signed in ink by an authorized officer, employee or agent of the Respondent.

Prices must be stated in figures. Corrections shall be initialed in ink by the person signing the submittal. Prices having erasures or interlineations (cross outs) will not be accepted unless initialed in ink by the Respondent.

1.08 CORRECTION OF AMBIGUITIES AND OBVIOUS ERRORS

The City reserves the right to correct obvious errors in the Respondent’s submittal. In this regard, if the unit price does not compute to the extended total price, the unit price shall govern.

1.09 CLARIFICATION OF SPECIFICATION

Questions regarding this Specification and/or any included terms, conditions, forms, plans or drawings are to be submitted in writing to the City staff person identified as the contact for this Specification. All requests for interpretation must be received by the City no later than five business days prior to the opening date. Any interpretation of this Specification will be made by addendum duly issued and posted to the Purchasing website at www.TacomaPurchasing.org. Such addendum must be acknowledged in the submittal. The City of Tacoma will not be responsible for any other explanation or interpretation of the specification documents.

1.10 ALTERATIONS NOT ALLOWED

Except as otherwise specifically provided in the specification documents, submittals that are incomplete or conditioned in any way, contain erasures, alternatives or items not called for, or not in conformity with law, may be rejected as being non-responsive. Any attempt to condition the submittal by inserting exceptions to the Specification or any conditions, qualifications or additions that vary its terms may result in rejection of the
submittal. The City cannot legally accept any submittal containing a material deviation from the Specifications.

1.11 INSERTION OF MATERIAL CONFLICTING WITH SPECIFICATIONS

Only material inserted by the Respondent to meet requirements of the specification documents will be considered. Any other material inserted by the Respondent will be disregarded by the City of Tacoma as being non-responsive and may be grounds for rejection of the submittal.

1.12 FIRM PRICES/ESCALATION

Except as specifically allowed elsewhere in the specification documents, only firm prices will be accepted.

1.13 SHIPPING

Prices must be quoted FOB destination (the place of destination as defined in RCW 62A.2-319, as that statute may hereafter be amended), with freight prepaid and allowed (shipping costs included in unit prices), and risk of loss remaining with Respondent until delivery is tendered.

1.14 LEGAL HOLIDAYS

The City of Tacoma observes the following holidays, which shall apply to performance of all contracts awarded from this solicitation:

- New Year's Day: January 1
- Martin Luther King's Birthday: 3rd Monday in January
- Washington's Birthday: 3rd Monday in February
- Memorial Day: Last Monday in May
- Independence Day: July 4
- Labor Day: 1st Monday in September
- Veteran's Day: November 11
- Thanksgiving Day: 4th Thursday of November
- Day after Thanksgiving: 4th Friday of November
- Christmas Day: December 25

When any of these holidays occur on Saturday or Sunday, the preceding Friday or the following Monday, respectively, is a legal holiday for the City of Tacoma.

1.15 TAXES

Unless otherwise required in this Specification, applicable federal, state, city and local taxes shall be included in the submittal as indicated below. The total cost to the City, including all applicable taxes, may be the basis for contract award determination. As used herein, the term “taxes” shall include any and all taxes, assessments, fees, charges, interest, penalties, and/or fines imposed by applicable laws and regulations in connection with the procurement of goods and/or services hereunder.

A. Federal Excise Tax

The City of Tacoma is exempt from federal excise tax. The City will furnish a Federal Excise Tax Exemption certificate, if required. If the Respondent fails to include any applicable tax in its submittal, then Respondent shall be solely responsible for the payment of said tax.

B. State and Local Sales Tax

The City of Tacoma is subject to Washington state sales tax. It is the Respondent's obligation to state the correct sales tax percentage and include the applicable Washington state, city and local sales tax as a separate line item(s) in the submittal.
C. City of Tacoma Business and Occupation Tax

It is the Respondent’s obligation to include City of Tacoma Business and Occupation tax in the unit and/or lump sum prices submitted; it shall not be shown separately on the submittal.

Per Sub-Title 6A of the City of Tacoma Municipal Code, transactions with the City of Tacoma may be subject to the City’s Business and Occupation Tax.

It is the responsibility of the Respondent awarded the contract to register with the City of Tacoma’s Tax and License Division, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, telephone 253-591-5252, website http://www.cityoftacoma.org/Page.aspx?nid=201.

D. Any or All Other Taxes

Any or all other taxes are the responsibility of the Respondent unless otherwise required by law.

1.16 WASHINGTON BUSINESS LICENSE REQUIREMENT

All submittals should include a Washington State Business License number in the space provided on the Submittal Signature Page. If the recommended respondent does not have a Washington State Business License at the time of submittal, it must obtain such license and provide proof thereof to the City of Tacoma prior to contract award. Failure to include a Washington State Business License may be grounds for rejection of the submittal. Information regarding Washington State Business Licenses may be obtained at http://www.dol.wa.gov/businesses.htm.

1.17 PUBLIC DISCLOSURE

Washington State Public Disclosure Act (RCW 42.56 et seq.) requires public agencies in Washington to promptly make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act. Documents submitted under this Specification are considered public records and, unless exempt from disclosure under the Act, will be made available for inspection and copying by the public in response to a public records request.

1.18 PROPRIETARY OR CONFIDENTIAL TRADE SECRET INFORMATION

If the Respondent considers any submittal document to be exempt from disclosure under the law, the Respondent shall clearly mark on the specific page(s) affected such words as “CONFIDENTIAL,” “PROPRIETARY” or “TRADE SECRET.” The Respondent shall also submit an index with its submittal identifying the affected page number(s) and location(s) of all such identified material. Failure to provide an index identifying the location of the material in the submittal that Respondent considers to be protected from disclosure will result in the records being released in response to a request for those records without further notice to Respondent. Marking the entire submittal as “confidential” or “proprietary” or “trade secret” is not acceptable and is grounds to reject such submittal.

If a public records request is made for disclosure of all or any part of Respondent’s submittal, and Respondent has (i) properly marked and (ii) indexed the material it asserts to be exempt from disclosure, the City will determine whether the material is exempt from public disclosure. If, in the City’s opinion, the material is subject to a possible exemption to disclosure, the City will notify Respondent of the request and impending release and allow the Respondent ten (10) business days to take whatever action Respondent deems necessary to protect its interests. The City will reasonably cooperate with any legal action initiated by the Respondent to prevent release; provided that all expense of such action shall be borne solely by the Respondent, including any damages, penalties, attorney’s fees or costs awarded by reason of having opposed disclosure and Respondent shall indemnify City against same. If the Respondent fails or neglects to take such action within said period, the City will release all materials deemed subject to disclosure. Submission of materials in response to this solicitation shall constitute assent by the Respondent to the foregoing procedure and the Respondent shall have no claim against the City on account of actions taken pursuant to such procedure.

1.19 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The City of Tacoma ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin or sex in the provision of benefits and services resulting from its federally assisted programs and activities. Contact Tacoma’s Title VI coordinator at 253-591-5224 for additional information.
1.20 LEGAL DISPUTES
Respondent agrees and stipulates that in the event any litigation should occur concerning or arising out of this solicitation or any submittal delivered in response hereto, the sole venue of any such legal action shall be the Pierce County Superior Court of the state of Washington and the interpretation of the terms of the solicitation and submittal shall be governed by the laws of the state of Washington.

1.21 PURCHASE ORDER TERMS AND CONDITIONS
Terms and conditions of City of Tacoma purchase orders, if issued, shall apply to contracts and awards resulting from this solicitation.

1.22 RESPONDENT'S REFUSAL TO ENTER INTO CONTRACT
Any Respondent who refuses to enter into a contract after it has been awarded to the Respondent will be in breach of the agreement to enter the contract, and the Respondent's certified or cashiers check or bid bond, if any, shall be forfeited.

1.23 AWARD
The City reserves the right to award contracts for any or all items to one or more respondents in the best interests of the City.

1.24 FINAL AWARD DETERMINATION
The Tacoma City Council or Public Utility Board, for awards over $200,000, shall be the final judge as to which submittal(s) is/are the lowest and best responsible, and best meets the interest of the City of Tacoma to accept. The purchasing manager makes the determination for awards of $200,000 and less.

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UNLESS OTHERWISE REQUIRED BY THE SPECIFICATION OR AGREED TO IN WRITING, THE FOLLOWING TERMS AND CONDITIONS SHALL GOVERN THE RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES TO THE CONTRACT.

2.01 CONTRACTOR

As used herein, the "Contractor" shall be the Respondent(s) awarded a contract pursuant to this Specification, whether designated as a Respondent, Vendor, Proposer, Bidder, Seller, Merchant, Service Provider or otherwise.

2.02 ENTIRE AGREEMENT

This Specification, purchase orders issued by the City pursuant hereto, and the Contractor's submittal, in that order of precedence, shall constitute the "Contract" between the parties. Said documents represent the entire agreement between the parties and supersede any prior oral statements, discussions or understandings between the parties, and/or subsequent contractor invoices. No modification of this Contract shall be effective unless mutually agreed in writing.

2.03 SERVICES

The services and/or work contracted for herein exclude public works and improvements as defined in RCW 39.04, as that statute may hereafter be amended.

2.04 SCOPE OF WORK

The Contractor agrees to diligently and completely perform the services required by this Contract. The City shall have the right to make changes within the general scope of services and/or deliverables upon execution in writing of a change order or amendment hereto. If the changes will result in additional work effort by Contractor the City agrees to reasonably compensate the Contractor for such additional effort up to the maximum amount specified in the Contract or as otherwise provided by Tacoma Municipal Code. Delivery of incidental products will be as designated in this Contract.

2.05 TIME FOR PERFORMANCE

All services shall be satisfactorily completed by the termination date contemplated by this Contract, and this Contract shall expire on said date unless mutually extended in writing by the Parties.

2.06 EXTENSION OF CONTRACT

This Contract shall be subject to extension by mutual agreement per the same prices, terms and conditions.

2.07 COMPENSATION

The City shall compensate the Contractor in accordance with the Contract. Said compensation shall be the total compensation for Contractor's performance hereunder including, but not limited to, all work, services, deliverables, materials, supplies, equipment, subcontractor’s fees and all reimbursable travel and miscellaneous or incidental expenses to be incurred by Contractor.

2.08 INVOICES

Each invoice shall show City of Tacoma purchase order number, release number if applicable, quantity, unit of measure, item description, unit price and extended price for each line. Line totals shall be summed to give a grand total to which sales tax shall be added, if applicable. Invoices shall be sent in duplicate to:

Accounts Payable
City of Tacoma
P. O. Box 1717
Tacoma Washington 98401-1717

Any terms, provisions or language in Contractor's invoice(s) that conflict with the terms of this Contract shall not apply to this Contract unless expressly accepted in writing by the City.
2.09 PAYMENT TERMS

Payment shall be made through the City’s ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice. Payment will not be considered late if mailed or electronically disbursed within the time specified. Payment(s) made in accordance with this Contract shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature, and acceptance of payment shall constitute a waiver of all claims submitted by Contractor. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

Invoices will not be processed for payment, nor will the period of cash discount commence, until all invoiced items are received and satisfactory performance of the Contract has been attained, and a properly completed invoice is received by the City. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.

2.10 ADDITIONAL CITY CONTRACTS

During the term of this Contract, other City of Tacoma Departments/Divisions shall have the right to enter into additional service contracts or issue purchase orders based on the unit prices and/or service rates stated in this Contract. An exception taken specifically to this provision at time of submittal shall not constitute a material deviation in the bidding process.

2.11 COOPERATIVE PURCHASING

The Washington State Interlocal Cooperation Act RCW 39.34 provides that other governmental agencies may purchase goods and services based on this Contract in accordance with the terms and prices indicated herein if all parties are agreeable. Each public agency shall formulate a separate contract with the Contractor, incorporating the terms and conditions of this Contract with the City of Tacoma. The City shall incur no liability in connection with such contracts or purchases by other public agencies thereunder. It will be the Contractor’s responsibility to inform such public agencies of this Contract. Contractor shall invoice such public agencies as separate entities.

2.12 WARRANTIES/REPRESENTATIONS

The Contractor warrants that all services performed pursuant to the Contract shall be generally suitable for the use to which the City intends to use said services as expressed in this Contract. The Contractor represents and warrants that it will diligently and completely perform all services and obligations consistent with customarily accepted good practices and standards of performance applicable to service providers rendering the same or similar type of service and that it will comply with all applicable federal, state and local laws, ordinances, rules and regulations including, but not limited to, the Occupational Safety and Health Administration (OSHA) and the Washington Industrial Safety and Health Act (WISHA). If the Contractor intends to rely on information or data supplied by the City, other City contractor’s or other generally reputable sources without independent verification, such intent shall be brought to the attention of the City.

2.13 TAXES, LICENSES, PERMITS

Unless otherwise required by applicable law, the tax provisions in Section 1 - Solicitation apply to this Contract. Except for state sales tax, the Contractor acknowledges that it is responsible for the payment of all taxes applicable to this Contract and the Contractor agrees to comply with all applicable laws regarding the reporting of income, maintenance of records and all other requirements and obligations imposed pursuant to applicable law.

The Contractor, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The Contractor shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30.

If the City is assessed, made liable, or responsible in any manner for taxes contrary to the provisions of this Contract, the Contractor agrees to hold the City harmless from such costs, including attorney’s fees. In the event the Contractor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, other than those taxes the City is required to pay, then the Contractor authorizes the City to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the Contractor’s total compensation.
2.14 FEDERAL, STATE AND MUNICIPAL LAWS AND REGULATIONS

All federal, state, municipal and/or local laws and regulations shall be satisfied in the performance of all portions of this Contract. The Contractor shall be solely responsible for all violations of the law from any cause in connection with its performance of work under this Contract.

2.15 HISTORICALLY UNDER-UTILIZED BUSINESSES (HUB) PROGRAM AND EQUAL OPPORTUNITY

It is the policy of the City of Tacoma that all citizens be afforded an equal opportunity for full participation in our free enterprise system. In order to implement this policy, the City of Tacoma is committed to ensuring equitable participation of historically under-utilized business enterprises. Contact Tacoma’s HUB coordinator at 253-502-8080 for additional information.

2.16 NON-DISCRIMINATION

The Contractor agrees to take all steps necessary to comply with all federal, state and City laws and policies regarding non-discrimination and equal employment opportunities. The Contractor shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical handicap. In the event of non-compliance by the Contractor with any of the non-discrimination provisions of this Contract, the City shall be deemed to have cause to terminate this Contract, in whole or in part.

2.17 PREVAILING WAGES PAID – IF REQUIRED

If this Contract involves services for which state and/or local laws may require the Contractor to pay prevailing wages, and Contractor hereby agrees to pay such applicable prevailing wages. If applicable to this Contract, a Schedule of Prevailing Wage Rates for the locality or localities where this Contract will be performed is attached and made part of this Contract by this reference. If prevailing wages do apply to this Contract, the Contractor and its subcontractors shall (a) be bound by the provisions of Chapter 39.12 RCW, as amended, relating to prevailing wages and usual fringe benefits, (b) ensure that no worker, laborer or mechanic employed in the performance of any part of this Contract shall be paid less than the prevailing rate of wage specified on that Schedule, and (c) immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages must be submitted by the Contractor and its subcontractors to the City, in the manner requested by the City, prior to any payment by the City hereunder, and an Affidavit of Wages Paid must be received or verified by the City prior to final Contract payment.

2.18 CONFLICT OF INTEREST

No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Contractor shall comply with all federal, state and City conflict of interest laws, statutes and regulations. The Contractor represents that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains that would conflict in any manner or degree with the performance of the Contractor’s services and obligations hereunder. The Contractor further covenants that, in performance of this Contract, no person having any such interest shall be employed. The Contractor also agrees that its violation of the City’s Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Contract subjecting the Contract to termination.

2.19 REPORTS, RIGHT TO AUDIT, PERSONNEL

A. Reports

The Contractor shall, at such times and in such form as the City may reasonably require, furnish the City with periodic status reports pertaining to the services undertaken pursuant to this Contract.

B. Right to Audit

Upon City’s request, the Contractor shall make available to City all accounts, records and documents related to the scope of work for City’s inspection, auditing, or evaluation during normal business hours as reasonably needed by City to assess performance, compliance and/or quality assurance under this Contract.
C. Personnel

If before, during, or after the execution of this Contract, the Contractor has represented or represents to the City that certain personnel would or will be responsible for performing services pursuant to this Contract, then the Contractor is obligated to ensure that said personnel perform said Contract services to the maximum extent permitted by law. This Contract provision shall only be waived by written authorization by the City, and on a case by case basis.

2.20 TERMINATION AND SUSPENSION

The City may terminate this Contract at any time, with or without cause, by giving 10 business days written notice to Contractor. In the event of termination, all finished and unfinished work prepared by the Contractor pursuant to this Contract shall be provided to the City. In the event City terminates this Contract due to the City’s own reasons and without cause due to the Contractor’s actions or omissions, the City shall pay the Contractor the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein.

The City may suspend this Contract, at its sole discretion, upon three business days written notice to the Contractor. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the Contractor’s actual expenses and shall be subject to verification. The Contractor shall resume performance of services under this Contract without delay when the suspension period ends.

Termination or suspension of this Contract by City shall not constitute a waiver of any claims or remaining rights the City may have against Contractor relative to performance hereunder.

2.21 INDEMNIFICATION – HOLD HARMLESS

The Contractor shall indemnify, defend and hold harmless the City, its officials, officers, agents, employees and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the fault of the City, or its officers, agents, or employees. The term “fault” as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.

The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Respondent specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

These indemnifications shall survive the termination of this Contract.

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

2.22 INSURANCE

The Contractor shall maintain all necessary insurance to protect Contractor and the City from losses and claims that may arise out of or result from performance of duties related to the Contract, including Worker's Compensation, automobile public liability and property damage, commercial general liability, professional liability, errors and omissions and others, as specified in the Insurance Requirements attachment.

2.23 INDEPENDENT CONTRACTOR STATUS

The Contractor is considered an independent contractor who shall at all times perform his/her duties and responsibilities and carry out all services as an independent contractor and shall never represent or construe his/her status to be that of an agent or employee of the City, nor shall the Contractor be eligible for any employee benefits. No payroll or employment taxes or contributions of any kind shall be withheld or paid by the City with respect to payments to Contractor. The Contractor shall be solely responsible for all said payroll or employment taxes and/or contributions including, but not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. If the City is assessed, made liable or responsible in any manner for such taxes or contributions, the Contractor agrees to indemnify and hold the City harmless from all costs incurred, including attorney fees.

Unless otherwise specified in writing, Contractor shall provide at its sole expense all materials, working space, and other necessities and instruments to perform its duties under this Contract. The Contractor, at
its sole expense, shall obtain and keep in force any and all applicable licenses, permits and tax certificates necessary to perform Contract services.

2.24 NOTICES
Except for routine operational communications, which may be delivered personally or transmitted by electronic mail or facsimile, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the Contractor’s registered agent and to the applicable City department representative.

2.25 CITY OWNERSHIP OF WORK/RIGHTS IN DATA/PUBLICATIONS
To the extent that Contractor creates any work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Contract, Contractor agrees to the following: The work has been specially ordered and commissioned by the City. Contractor agrees that the work is a “work made for hire” for copyright purposes, with all copyrights in the work owned by City. To the extent that the work does not qualify as a work made for hire under applicable law, and to the extent that the work includes material subject to copyright, Contractor hereby assigns to City, its successors and assigns, all right, title and interest in and to the work, including but not limited to, all copyrights, patent, trade secret and other proprietary rights, and all rights, title and interest in and to any inventions and designs embodied in the work or developed during the course of Contractor’s creation of the work.

The Contractor shall be solely responsible for obtaining releases and/or licenses for the reproduction, distribution, creation of derivative works, performance, display, or other use of copyrighted materials. Should the Contractor fail to obtain said releases and/or licenses, the Contractor shall indemnify, defend and hold harmless the City for any claim resulting there from.

2.26 PUBLIC DISCLOSURE
This Contract and documents provided to the City by Contractor hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the City may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies.

2.27 DUTY OF CONFIDENTIALITY
Contractor acknowledges that unauthorized disclosure of information or documentation concerning the Scope of Work hereunder may cause substantial economic loss or harm to the City. Except for disclosure of information and documents to Contractor’s employees, agents, or subcontractors who have a substantial need to know such information in connection with Contractor’s performance of obligations under this Contract, the Contractor shall not without prior written authorization by the City allow the release, dissemination, distribution, sharing, or other publication or disclosure of information or documentation obtained, discovered, shared or produced pursuant to this Contract.

2.28 DISPUTE RESOLUTION
In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other remedies. This provision does not limit the City’s right to terminate authorized by this Contract.

2.29 GOVERNING LAW AND VENUE
Washington law shall govern the interpretation of this Contract. The state or federal courts located in Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.

2.30 ASSIGNMENT
The Contractor shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract without the prior written consent of the City.
2.31 WAIVER

A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.

2.32 SEVERABILITY AND SURVIVAL

If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.

2.33 CONFLICT WITH CONTRACT

In the event of any conflict between this document, Standard Terms and Conditions Section 2, Services, and the Professional Services Contract or other type of Contract (Contract) ultimately negotiated and entered into between Respondent and the City, the provisions of the Contract shall prevail. However, absent any such conflict the provisions of this document, Standard Terms and Conditions Section 2, Services, are fully incorporated into and considered part of the Contract.

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APPENDIX D

City of Tacoma SAP Installation